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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF : KOBER et al.
SERIAL NO. : 10/525,008
FILED : September 8, 2005
FOR : AGENTS CONTAINING CARBOXYLIC ACID
AND THE USE OF THE SAME IN PLANT
CULTIVATION

DECLARATION UNDER 37 C.F.R. §1.132

COMMISSIONER OF PATENTS
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ALEXANDRIA, VA 22313-1450

SIR:

Now comes Jan Willmann who deposes and states:

1. I am a graduate of the University of Bremen, Germany, and received my doctorate degree in the year 2007.
2. I have been working for more than 5 years as an NMR specialist in the field of organic chemistry, since 2009 in the crop protection division at BASF SE.
3. I was asked to investigate by NMR whether or not metconazole is protonated by propionic or sulfuric acid.
4. The following experiments were carried under my supervising regime in a GLP (Good Laboratory Practice) certified laboratory. The Certificate is shown in figure 3 which is attached hereto as Annex II.
5. NMR measurements were done on a Varian Unity INOVA 600 MHz NMR-Spectrometer equipped with an idhfx probe. VnmrJ (version 2.2 revision D) was used as data processing system.

6. GLP-certified 1*H*-1,2,4-triazole and metconazole samples were taken from the inhouse reference material team. All sample solutions were prepared as follows:

40.0 mg of metconazole (Reg.No. 4056343; M=319,8 g/mol) were dissolved in 1.5 mL of deuterated DMSO(-d₆) (metconazole stock solution). 29.0 mg of unsubstituted 1*H*-1,2,4-triazole (Reg.No.87084; M=69 g/mol) were dissolved in 5.0 mL of deuterated DMSO(-d₆) (1*H*-1,2,4-triazole stock solution). 24.5 mg of propionic acid (M=74 g/mol) were dissolved in 1.5 mL of deuterated DMSO(-d₆) (propionic acid stock solution). 36.5 mg of sulfuric acid (98% purity; M=98 g/mol) were dissolved in 1.5 mL of deuterated DMSO(-d₆) (sulfuric acid stock solution).

For each NMR measurement, 0.6 mL (50 µmol) of the metconazole stock solution or 0.6 mL (50.4 µmol) of the 1*H*-1,2,4-triazole stock solution were transferred to a NMR glass tube (control samples). Test samples were prepared by adding either 0.23 mL (50.7 µmol) or 0.46 mL (101.4 µmol) of the propionic acid stock solution or 0.2 mL (49.7 µmol) of the sulfuric acid stock solution to the NMR tubes containing the metconazole or 1*H*-1,2,4-triazole stock solution.

The composition of all samples is summarized in table 1:

Table 1:

Sample No.	Metconazole 0.6 mL (50.4 µmol)	1 <i>H</i> -1,2,4- Triazole 0.6 mL (50.4 µmol)	Propionic acid 0.23 mL (50.7 µmol)	Propionic acid 0.46 mL (101.4 µmol)	Sulfuric acid 0.2 mL (49.7 µmol)
1a	X	-	-	-	-
1b	X	-	X	-	-
1c	X	-	-	X	-
2a	X	-	-	-	X
3a	-	X	-	-	-
3b	-	X	X	-	-
3c	-	X	-	X	-
4a	-	X	-	-	X

7. ¹H- and ¹H-¹⁵N-HMBC-NMR measurements were done of the metconazole stock solution (sample 1a), the equimolar metconazole / propionic acid solution (sample 1b), the 2:1

(mol:mol) propionic acid / metconazole solution (sample 1c), and the metconazole / sulfuric acid solution (sample 2a). ^1H -NMR measurements were done of the 1*H*-1,2,4-triazole solution (sample 3a), the equimolar 1*H*-1,2,4- triazole / propionic acid solution (sample 3b), the 2:1 (mol:mol) propionic acid / 1*H*-1,2,4-triazole solution (sample 3c), and the 1*H*-1,2,4-triazole / sulfuric acid solution (sample 4a). All ^1H chemical shifts were referenced to the DMSO signal.

8. The ^1H - and ^{15}N -HMBC-NMR spectra recorded for samples 1a, 1b, 1c and 2a are shown in Figures 1a- ^1H , 1a- ^{15}N , 1b- ^1H , 1b- ^{15}N , 1c- ^1H , 1c- ^{15}N , 2a- ^1H , 2a- ^{15}N which are attached hereto as Annex I. All results are summarized in table 2:

Table 2:

Sample No.	Ingredients / mixtures	^1H - chemical shifts [ppm]		^{15}N - chemical shift [ppm]		
		H^3	H^5	N^1	N^2	N^4
1a	Metconazole in DMSO(-d6)	8.0	8.5	198.0	113.5	152.5
1b	Metconazole in DMSO(-d6) + 1 mol eq. propionic acid	8.0	8.5	197.9	113.6	152.2
1c	Metconazole in DMSO(-d6) + 2 mol eq. propionic acid	8.0	8.5	198.0	113.5	152.4
2a	Metconazole in DMSO(-d6) + 1 mol eq. sulfuric acid	8.4	9.0	198.2	115.6	126.1
3a	1 <i>H</i> -1,2,4-triazole in DMSO(-d6)	8.0	8.5	-	-	-
3b	1 <i>H</i> -1,2,4-triazole in DMSO(-d6) + 1 mol eq. propionic acid	8.0	8.5	-	-	-
3c	1 <i>H</i> -1,2,4-triazole in DMSO(-d6) + 2 mol eq. propionic acid	8.0	8.5	-	-	-
3d	1 <i>H</i> -1,2,4-triazole in DMSO(-d6) + 1 mol eq. sulfuric acid	9.1	9.1	-	-	-

9. As shown in table 2, the ^1H - and ^{15}N -NMR chemical shifts observed for samples 1a to 1c were identical. Accordingly, there was no indication that metconazole was protonated by the addition of 1 or 2 molar equivalents of propionic acid. In contrast, a strong shift of the ^{15}N signals,

especially for nitrogen N^4 which is shifted from 152.4 to 126.6 ppm, and a slight shift of the proton signals (0.4 and 0.5 ppm) were observed when 1 molar equivalent of concentrated sulfuric acid was added to metconazole (sample 2a). This is a strong indication that especially nitrogen N^4 of metconazole was protonated by the addition of sulfuric acid.

Analogous results were obtained with 1H -NMR measurements of unsubstituted 1*H*-1,2,4-triazole (samples 3a to 3c and 4a) which fully confirmed the results obtained for metconazole.

10. I conclude that the NMR results obtained in this study corroborate that while metconazole is protonated by sulfuric acid, it is not protonated by propionic acid.

11. Further deponent saith not.

Limburgerhof, Germany, 07.07.2010



(Jan Willmann)

Annex I: Figures 1a- 1H , 1a- ^{15}N , 1b- 1H , 1b- ^{15}N , 1c- 1H , 1c- ^{15}N , 2a- 1H , 2a- ^{15}N
Annex II: Figure 3

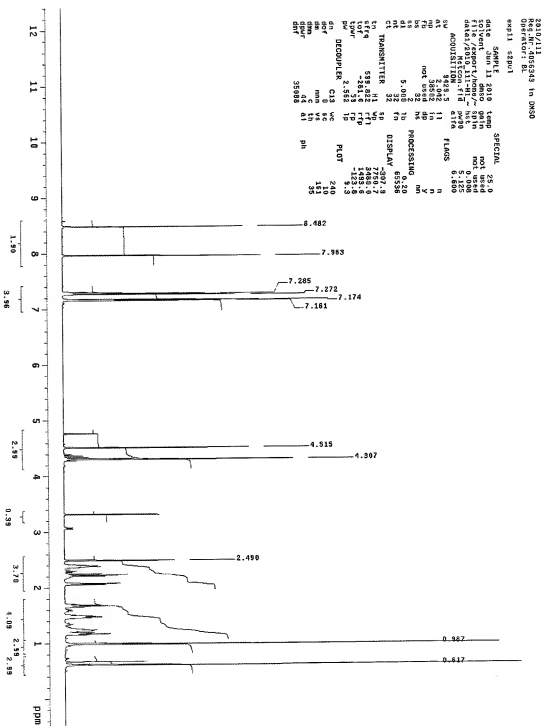
Figure 1a-¹H

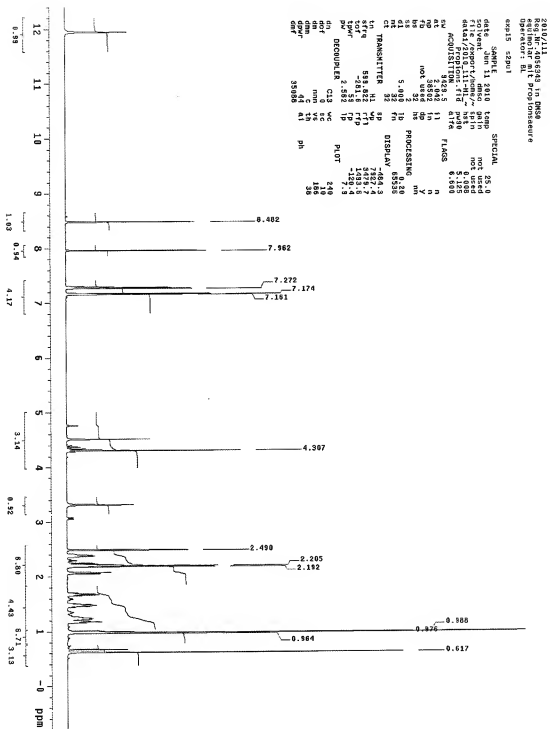
Figure 1b-¹H

Figure 2a-¹⁵N

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Annex II

Figure 3

Rheinland-Pfalz

Gute Laborpraxis / Good Laboratory Practice

GLP-Bescheinigung / Statement of GLP Compliance
(gem. / according to § 19 Abs. 1 Chemikaliengesetz)

<p>Eine GLP-Inspektion zur Überwachung der Einhaltung der GLP-Grundsätze gemäß Chemikaliengesetz bzw. Richtlinie 88/320/EG wurde durchgeführt in:</p>	<p>Assessment of conformity with GLP according to Chemikaliengesetz and Directive 88/320/EEC at:</p>
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Prüfeinrichtung / Test facility


**BASF Aktiengesellschaft
BASF Agricultural Center Limburgerhof
Crop Protection Division
Ecology and Environmental Analytics
P.O. Box 120
D-67114 Limburgerhof**

Prüfung nach Kategorien / Areas of Expertise
(gem. / according ChemVwV-GLP Nr. 5: OECD guidance)
1, 4, 5, 6, 7, 8

Datum der Inspektion / Date of Inspection
(Tag, Monat, Jahr / day, month, year)
04. – 06. Oktober und 06. Dezember 2006


<p>Die genannte Prüfeinrichtung befindet sich im nationalen GLP-Überwachungsverfahren und wird regelmäßig auf Einhaltung der GLP-Grundsätze überwacht.</p> <p>Auf der Grundlage des Inspektionsberichtes wird hiermit bestätigt, dass in dieser Prüfeinrichtung die oben genannten Prüfungen unter Einhaltung der GLP-Grundsätze durchgeführt werden können. Eine erneute behördliche Überprüfung der Einhaltung der GLP-Grundsätze durch die Prüfeinrichtung ist so rechtzeitig zu beantragen, dass die Folgespektion spätestens vier Jahre nach dem Beginn der o.g. Inspektion stattfinden kann. Ohne diesen Antrag wird die Prüfeinrichtung nach Ablauf der Frist aus dem deutschen GLP-Überwachungsprogramm genommen und diese GLP-Bescheinigung verliert ihre Gültigkeit.</p>	<p>The above mentioned test facility is included in the national GLP Compliance Programme and is inspected on a regular basis.</p> <p>Based on the inspection report it can be confirmed, that the test facility is able to conduct the aforementioned studies in compliance with the Principles of GLP.</p> <p>Verification of the compliance of the test facility with the Principles of the GLP has to be applied for in time to allow for a follow-up inspection to take place within four years after commencing the above mentioned inspection. Elapsing this term, the test facility will be taken out of the German GLP-Monitoring Programme and this GLP Certificate becomes invalid.</p>
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Unterschrift, Datum / Signature, Date


Dr.-Ing. Karl-Heinz Rother - Präsident -
(Name und Funktion der verantwortlichen Person / name and function of responsible person)

**Landesamt für Umwelt, Wasserwirtschaft und Gewerbeaufsicht
Kaiser-Friedrich-Straße 7
55116 Mainz**

(Name und Adresse der GLP-Überwachungsbehörde / Name and address of the GLP Monitoring Authority)

**Landesamt für
Umwelt, Wasserwirtschaft
und Gewerbeaufsicht**


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